THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.24497 of 2005

02.1.2006

Between:

Elakala Ajaraiah, S/o.late Veeraiah

..... PETITIONER

AND

The District Collector, Khammam

And others

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION No.24497 of 2005

ORDER:

The petitioner claims to be owner of land admeasuring Acs.2.20 gts., in survey No.537 of Yellandu village in Khammam District. He further claims that out of this, an extent of Acs.1.10 gts., was assigned to him in 1968-1969 and he has been in possession since then and also obtained necessary mutation in the revenue records. The petitioner alleges that the local M.L.A. is enemically disposed of towards him, and therefore, under his influence, the fourth respondent without following due process of law and without issuing notices, marked the land for construction of houses. The petitioner, therefore, seeks *inter alia* a writ of Mandamus directing the respondents not to construct houses in survey No.537 admeasuring Acs.1.10 gts., of Yellandu village.

At the stage of admission itself, the respondents 1 and 2 have filed counter affidavits. The fourth respondent also filed a counter affidavit. The Mandal Revenue Officer, who filed counter affidavit on behalf of respondents 1 and 2 states that the

entire land in survey No.537 admeasuring Acs.421.38 gts., was leased out to M/s.Singareni Collieries Company Ltd., in the year 1950 for a period of 10 years and that the lease was extended from time to time for mining. By G.O.Ms.No.292 dated 22.10.2005, the lease was further extended for a period of 10 years with effect from 01.01.2005. It is further stated that the petitioner herein encroached upon the land and in 1992 necessary action was initiated under A.P.Land Encroachment Act, 1905 and that after following due process, the possession was taken under panchanama. A specific averment is made that the petitioner is not in possession of the land. It is further stated that there is no cultivation in the land and the land claimed by the petitioner is covered with dwelling houses where the petitioner also constructed the house without any title.

The fourth respondent in his counter affidavit denied the allegation that houses are being constructed in the land comprised in survey No.537. It is however admitted that by proceedings dated 30.5.2005, the District Collector accorded sanction for construction of 450 houses at Yellandu.

The petitioner has not filed any reply affidavit denying various counter averments made by respondents 1 and 2, and respondent No.4. A copy of G.O.Ms.No.292 dated 22.10.2005 is annexed to the counter affidavit of respondents 1 and 2, which would reveal that the land admeasuring Acs.3,367.05 in Yellandu village was leased out to M/s.Singareni Collieries Company Limited and the lease was renewed from time to time. Further, the copy of the panchanama dated 25.6.2002 annexed to the counter affidavit would also show that the petitioner herein was evicted from the land in question and possession was taken over by the government. In view of these unrebutted counter averments, it must be held that the petitioner has filed the present writ petition without regard to the truth and on mere conjectures.

In the result, for the above reasons, the writ petition is dismissed. No costs.

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(V.V.S. RAO,J)

January 02, 2006

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